

#### Members

Sen. Steve Johnson, Chairperson  
Sen. Mark Blade  
Rep. Susan Crosby  
Rep. Gloria Goeglein  
Robert Bonner  
David Giles  
Galen Goode  
Gloria Kardee  
Jerri Lerch  
Janet Marich  
Stephen Spindler  
Judith Tilton



# INDIANA COMMISSION ON MENTAL HEALTH

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Steve Wenning, Attorney for the Commission

Authority: P.L. 37-1998

## MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 26, 2001  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington St.,  
Room 233  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 2

**Members Present:** Sen. Steve Johnson, Chairperson; Rep. Susan Crosby; Robert Bonner; Galen Goode; Jerri Lerch; Amelia Cook Lurvey.

**Members Absent:** Sen. Mark Blade; Rep. Gloria Goeglein; David Giles; Gloria Kardee; Janet Marich; Stephen Spindler; Judith Tilton.

Senator Steve Johnson called the second meeting of the Indiana Commission on Mental Health (Commission) to order at 10:15 A.M. The Chairperson began to receive testimony.

### **Amelia Cook Lurvey, Council of Volunteers and Organization of Hoosiers with Disabilities (COVOH)**

Ms. Lurvey noted that the Bazelon Center for Mental Health Law produced a document, *Staying Together: Preventing Custody Relinquishment for Children's Access to Mental Health Services*, that was a catalyst for the interest in this issue. Ms. Lurvey then reviewed the history of the child custody relinquishment issue in Indiana. P.L. 282-2001 included custody relinquishment language that the Division of Family and Children agreed was workable. County council members had expressed concern about the bill with regard to the possible fiscal impact on county property tax levies. With the passage of the bill, Mr. Hmurovich, Director of the Division of Family and Children (DFC), convened a collaborative working group to address the critical issues. This working group has met five times and Ms. Lurvey reported that they have made excellent progress.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.ai.org/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

### **Amy Brown, Legislative Liaison of the Division of Family and Children**

Ms. Brown stated that P.L. 282-2001 forced the Division to collaborate with other agencies to provide services for children. The Family and Social Services Administration (FSSA) convened a meeting of the Division of Mental Health and Addiction (DMHA), the Office of Medicaid Policy and Planning (OMPP), the Department of Education (DOE), the Division of Family and Children (DFC), and Ms. Lurvey. The workgroup has met five times to address implementation issues of P.L. 282-2001 and will meet on November 14, 2001, to develop final recommendations. Ms.

Brown stated that the work group identified five goals to be achieved. These are:

- 1) To reduce the number of parents who feel that they must relinquish custody of their child to the child welfare system in order to obtain adequate care for the child.
- 2) To provide prevention and early intervention services that preserve and support the family and that empower the families to remain involved with the care decisions of their child.
- 3) To communicate and discuss policy and funding decisions with families and advocates.
- 4) To promote and expand more efficient use of various funding streams for mental health services.
- 5) To collaboratively involve DFC, DMHA, the Division of Aging, Disabilities, and Rehabilitation (DDARS), OMPP, and DOE in blending funds and establishing policy guidelines to provide services to children that enable them to remain in their communities with their families, and attend school and be ready to learn.

Ms. Brown identified five options the workgroup has examined for long-term funding for services needed by this group of children. The options under consideration are:

- 1) Develop new Medicaid waivers.
- 2) Encourage the use of the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) under the Medicaid program by physicians for billing of treatment services and to better inform families of their treatment options.
- 3) Survey the state to determine what localities are lacking in the way of specific services and how communities are successfully working to blend funds for services for mentally ill or emotionally disturbed children.
- 4) Include case-management services as part of the mental health benefits for Package C of the Children's Health Insurance Program (CHIP).
- 5) Work with the Department of Education and all FSSA Divisions to identify blended funding options that would utilize multiple funding streams.

Ms. Brown also reported that the Division has developed a "Voluntary Placement Agreement Form" to be used in the county offices. This form outlines that the Division will not initiate a court proceeding to terminate the parental rights or transfer legal custody of a child who does not meet the definition of a "Child in Need of Services" and that the local Office of Family and Children will work with the family and community resources to identify resources to meet the needs of mentally ill or emotionally disturbed children.

Ms. Brown stated that the Division does not believe that additional legislative changes are needed at this time to provide services for this group of children.

Sen. Johnson commented that at the time SEA 538-2001 was being heard, county councils thought that the bill would provide an open season on county Family and Children Funds. Sen. Johnson asked how many children have received services under the provisions of the bill? Ms. Brown responded that arriving at a specific number would be difficult since the children come in from different systems. Ms. Brown commented that an informal survey of the Division's local office directors yielded an average answer of three to six children per county. Ms. Brown stated that the Division cannot pay for a residential placement using county Family and Children Funds without a CHINS order. The agreement is to keep the children in the community and provide

services without going through the adjudication process. Existing funding streams such as Medicaid, Department of Education, or Mental Health are available to provide services for the children - the Division office is to help identify how to provide an individual child the necessary services.

Bob Marra, Director of Special Education, reported that the Interim Study Committee on Education Issues recommended the establishment of a task force to identify methods to coordinate and streamline service delivery to children with disabilities and their families and to maximize the use of available federal, state, and local resources to provide an array of services to these children. Mr. Marra remarked that the Department of Education had identified Medicaid-eligible children receiving "S-5" services and had leveraged an additional \$600,000 in this 100% state-funded program. Mr. Marra stated that there appear to be more opportunities to leverage Medicaid funds in special education programs.

There was further discussion regarding organizational structure and the delivery of services within state government.

### **Proposed Legislation**

No votes were taken on proposed legislation due to the lack of a quorum at the meeting. Rep. Crosby asked that the minutes and final status report note if there was unanimous consent among the members of the Commission present.

### **PD 3475 (Exhibit A)**

At the request of Rep Crosby, Steve Wenning, staff attorney for the Commission, explained that PD 3475 requires licensure for alcohol and drug abuse counselors. The PD includes grandfather provisions for current practitioners and exempts members of the clergy from licensure requirements. Ms. Pat McGuffy, representing the Indiana Psychological Association, discussed the grandfathering issue which was the reason the Association previously opposed this language. George Brines, representing the Indiana Council of Alcohol and Drug Counselors, commented that the grandfathering provisions had been an issue with this group as well and that the academic requirement of at least a Master's degree was an important quality issue. Rep. Crosby stated that parity for drug and alcohol abuse services would result in third-party payors demanding some quality controls for practitioners. The Commission took no action on this PD.

### **PD 3372 (Exhibit B)**

Sen. Johnson explained that PD 3372 extends the Commission on Mental Health for an additional two years. There was discussion regarding extending the Commission for a longer period of time than two years. Further discussion regarding the accomplishments of the Commission took place. There was unanimous consent by the members present to support this PD although no formal recommendation could be made due to the lack of a quorum.

### **PD 3485 and PD 3371 (Exhibits C and D)**

Sen Johnson asked Steve McCaffrey, President of the Mental Health Association, to discuss the two PD's that deal with substance abuse parity for insurance coverage. Mr. McCaffrey commented that the Mental Health Association supports both PDs. Mr. McCaffrey described PD 3371 as the "ideal" full parity language. PD 3371 is identical to the Commission's recommendation in the 2001 legislative session. PD 3485 represents an incremental approach to substance abuse parity; it does not require coverage under the Children's Health Insurance Program (CHIP) and it qualifies that the law applies to coverage of services for the treatment of substance abuse only if those services are required in the treatment of a mental illness. There was discussion regarding the history of this issue and the draft most likely to receive consideration in the legislature. All members of the Commission present, consented to support PD 3485 although no formal recommendation could be made due to the lack of a quorum.

## **Draft in Progress RE: Prohibition of Medicaid Restrictions on Mental Health Drugs (Exhibit E)**

Sen. Johnson asked Mr. McCaffrey to review the provisions of the draft for the Commission. Mr. McCaffrey explained that the draft language represents a compromise worked out between the Office of Medicaid Policy and Planning (OMPP) and the Mental Health Association to ensure adequate drugs are available for mental health consumers. The draft addresses the four issues that Mr. McCaffrey discussed at the first meeting of the Commission on October 9, 2001. Mr. McCaffrey stated that the Mental Health Association can support the draft language presented to the Commission and would like to see the proposed rule language enacted as a statutory requirement. It was the consensus of the Commission members present that the draft language be supported as a response to the Governor's veto of SB 471-2001. The Commission members agreed that although no formal recommendation could be made due to the lack of a quorum, the language should be supported to ensure that no restrictions are placed on mental health drugs as agreed to by OMPP.

## **Other Business**

### **Ms. Dee Weeks, Member, Board of Directors of the National Alliance for the Mentally Ill (NAMI)**

Ms. Weeks stated that law enforcement and judges do not use the involuntary commitment language currently in statute, due either to misunderstanding or lack of will. She then described a tragic situation that might have been avoided had local law enforcement responded to a request to detain an unstable, mentally ill individual. She suggested that some minor statutory changes as well as crisis teams could help salvage many lives.

Ms. Weeks also commented that actions of the Commission had helped to improve circumstances of mentally ill inmates committed to the Department of Corrections, but that more was needed. Ms. Weeks cited an individual case illustrating that the Department of Corrections needs to seek court orders for involuntary medication compliance. Ms. Weeks also stated that mentally ill inmates need Assertive Community Treatment Team (ACT) services when they are released.

Mr. Joe Vanable, also of NAMI, commented that while mental health parity was a statutory requirement, it had not been fully accomplished. Mr. Vanable stated that an out-of-state insurance carrier had claimed that they were not required to comply with Indiana law.

Rep. Susan Crosby stated that the impending closure of Muscatatuck State Developmental Center and the proposed down-sizing of Madison State Hospital was causing much confusion and concern in the southern part of the state. Rep. Crosby requested that the Commission consider petitioning the Legislative Council for permission to hold an additional meeting at Madison State Hospital to review the issues and facts within the community. Sen. Johnson asked Kathy Norris, Fiscal Analyst for the Commission, to draft a request for a tentative meeting to be held in November.

## **Adjournment**

There being no further business to come before the Commission, Senator Johnson adjourned the meeting at approximately 11:50 A.M.